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LEGISLATIVE RESEARCH COMMISSION

State Capitol 700 Capitol Avenue Frankfort KY 40601

502-564-8100

Capitol FAX 502-223-5094

Annex FAX 502-564-6543

lrc.ky.gov

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MEMORANDUM

TO: Gerald E. Wuetcher, Executive Advisor/Attorney
Public Service Commission

FROM: Donna Little
Regulations Compiler

RE: Acknowledgement of Proposed Administrative Regulation and/or Amendment – 807 KAR 5:001

DATE: August 14, 2013

A copy of the administrative regulation listed above is enclosed for your files. The administrative regulation are **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **October 2013**, meeting. We will notify you of the date and time of this meeting when it has been scheduled.

Pursuant to KRS 13A.280, **if** a public hearing is held or you receive written comments on the ordinary administrative regulation, the Statement of Consideration for the ordinary administrative regulation is due by noon on **October 15, 2013**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to public hearings and the Statement of Consideration.

If you have any questions, please do not hesitate to contact me at (502) 564-8100.

Enclosures

1 ENERGY AND ENVIRONMENT CABINET

2 Public Service Commission

3 (Amendment)

4 807 KAR 5:001. Rules of procedure.

5 RELATES TO: KRS 61.870-884, 278.010, 278.020(3), 278.100, 278.180, 278.300,
6 365.015, 369.102, 424.300, 47 C.F.R. 36

7 STATUTORY AUTHORITY: KRS 278.040(3), 278.310

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) authorizes the
9 commission to promulgate reasonable administrative regulations to implement the
10 provisions of KRS Chapter 278. KRS 278.310 requires that all hearings and
11 investigations before the commission shall be governed by rules promulgated by the
12 commission. This administrative regulation establishes requirements with respect to
13 formal and informal proceedings before the commission.

14 Section 1. Definitions.

15 (1) "Affiliate" means an entity:

16 (a) That is wholly owned by a utility;

17 (b) In which a utility has a controlling interest;

18 (c) That wholly owns a utility;

19 (d) That has a controlling interest in a utility; or

20 (e) That is under common control with the utility.

21 (2) "Case" means a matter coming formally before the commission.

1 (3) "Commission" is defined by KRS 278.010(15).

2 (4) "Controlling interest in" and "under common control with" mean a utility or other
3 entity if the utility or entity:

4 (a) Directly or indirectly has the power to direct, or to cause the direction of, the
5 management or policies of another entity; and

6 (b) Exercises that power:

7 1. Through one (1) or more intermediary companies, or alone;

8 2. In conjunction with, or pursuant to an agreement;

9 3. Through ownership of ten (10) percent or more of the voting securities;

10 4. Through common directors, officers, stockholders, voting or holding trusts,
11 associated companies;

12 5. By contract; or

13 6. Through direct or indirect means.

14 (5) "Electronic mail" means an electronic message that is sent to an electronic mail
15 address and transmitted between two (2) or more
16 telecommunication~~[telecommunications]~~ devices, computers, or electronic devices
17 capable of receiving electronic messages.

18 (6) "Electronic mail address" means a destination, commonly expressed as a string
19 of characters, to which electronic mail can be sent or delivered, and consists of a user
20 name or mailbox and a reference to an Internet domain.

21 (7) "Electronic signature" is defined by KRS 369.102(8).

1 (8) "Executive director" means the person appointed to the position established in
2 KRS 278.100 or a person that he or she has designated to perform a duty or duties
3 assigned to that position.

4 (9)~~[(8)]~~ "Paper" means, regardless of the medium on which it is recorded, an
5 application, petition, or other initiating document, motion, complaint, answer, response,
6 reply, notice, request for information, or other document that this administrative regulation
7 or the commission directs or permits a party to file in a case.

8 (10)~~[(9)]~~ "Party" means a person who:

9 (a) Initiates action through the filing of a formal complaint, application, or petition;

10 (b) Files a tariff or tariff sheet with the commission pursuant to KRS 278.180 and
11 807 KAR 5:011 that the commission has suspended and established a case to investigate
12 or review;

13 (c) Is named as a defendant in a formal complaint filed pursuant to Section 20 ~~[49]~~
14 of this administrative regulation;

15 (d) Is granted leave to intervene pursuant to Section 4(11) of this administrative
16 regulation; or

17 (e) Is joined~~[as a party]~~ to a commission proceeding.

18 (11)~~[(10)]~~ "Person" is defined by KRS 278.010(2).

19 (12)~~[(11)]~~ "Sewage utility" means a utility that meets the requirements of KRS
20 278.010(3)(f).

21 (13)~~[(12)]~~ "Signature" means any manual, facsimile, conformed, or electronic
22 signatures~~[an original signature or an electronic signature as defined by KRS 369.102(8)].~~

1 (14) "Tariff" means the schedules of a utility's rates, charges, regulations, rules,
2 tolls, terms, and conditions of service over which the commission has jurisdiction.

3 (15)[(13)] "Utility" is defined by KRS 278.010(3).

4 (16) "Water district" means a special district formed pursuant to KRS 65.810 and
5 KRS Chapter 74.

6 (17) "Web site" means an identifiable site on the internet, including social media,
7 which is accessible to the public.

8 Section 2. Hearings. The commission shall provide notice of hearing in a case by
9 order except if a hearing is not concluded on the designated day and the presiding officer
10 verbally announces the date for continuation of the hearing. A verbal announcement
11 made by the presiding officer shall be deemed proper notice of the continued hearing.

12 Section 3. Duties of Executive Director~~[to Furnish Information]~~. (1) Upon request,
13 the executive director shall:

14 (a) Advise as to the form of a paper~~[petition, complaint, answer, application, or~~
15 ~~other document]~~ desired to be filed;

16 (b) Provide general information regarding the commission's procedures and
17 practices; and

18 (c) Make available from the commission's files, upon request, a document or
19 record pertinent to a matter before the commission unless KRS 61.878 expressly
20 exempts the document or record from inspection or release.

21 (2) The executive director shall reject for filing a document that on its face does not
22 comply with 807 KAR Chapter 5.

1 Section 4. General Matters Pertaining to All Cases~~[Formal Proceedings]~~. (1)
2 Address of the commission. All communications shall be addressed to: Public Service
3 Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky
4 40602~~[40604]~~.

5 (2) Case numbers and styles. Each case shall receive a number and a style
6 descriptive of the subject matter. The number and style shall be placed on each
7 subsequent paper~~[document]~~ filed in the case.

8 (3) Signing of papers.

9 (a) A paper shall be signed by the submitting party or attorney and shall include
10 the name, address, telephone number, facsimile number, and electronic mail address, if
11 any, of the attorney of record or submitting~~[filing]~~ party.

12 (b) A paper shall be verified or under oath if required by statute, administrative
13 regulation, or order of the commission.

14 (4) A person shall not file a paper on behalf of another person, or otherwise
15 represent another person, unless the person is an attorney licensed to practice law in
16 Kentucky or an attorney who has complied with SCR 3.030(2). An attorney who is not
17 licensed to practice law in Kentucky shall present evidence of his or her compliance with
18 SCR 3.030(2) if appearing before the commission.

19 (5) Amendments. Upon motion of a party and for good cause shown, the
20 commission shall allow a complaint, application, answer, or other paper to be amended or
21 corrected or an omission supplied. Unless the commission orders otherwise, the
22 amendment shall not relate back to the date of the original paper.

23 (6) Witnesses and subpoenas.

1 (a) Upon the written request of a party to a proceeding or Commission Staff,
2 subpoenas requiring the attendance of witnesses for the purpose of taking testimony may
3 be signed and issued by a member of the commission.

4 (b) Subpoenas for the production of books, accounts, documents, or records
5 (unless directed to issue by the commission on its own authority) may be issued by the
6 commission or a commissioner, upon written request, stating as nearly as possible the
7 books, accounts, documents, or records desired to be produced.

8 (c) A party shall submit a completed subpoena form with its written request as
9 necessary.

10 (d) Every subpoena shall be served, in the manner prescribed by subsection (8) of
11 this section, on~~each party and~~ any person whose information is being requested.

12 (e) Copies of all documents received in response to a subpoena shall be filed with
13 the commission and furnished to all other parties to the case, except on motion and for
14 good cause shown. Any other tangible evidence received in response to the subpoena
15 shall be made available for inspection by the commission and all other parties to the
16 action.

17 (7) Computation of time.

18 (a) In computing a period of time prescribed or allowed by order of the commission
19 or by 807 KAR Chapter 5 or KRS Chapter 74 or 278, the day of the act, event, or default
20 after which the designated period of time begins to run shall not be included.

21 (b) The last day of the period so computed shall be included, unless it is a
22 Saturday, a Sunday, a legal holiday, or other day commission offices are legally closed, in

1 which event the period shall run until the end of the next day that is not a Saturday, a
2 Sunday, a legal holiday, or other day commission offices are legally closed.

3 (8) Service.

4 (a) Unless the commission orders service upon a party and its attorney~~otherwise~~,
5 service shall be made upon the party's attorney if the party is represented by an attorney.

6 (b) Service upon an attorney or upon a party shall be made by delivering a copy to
7 the attorney or party or by mailing it by United States mail or other recognized mail carrier
8 to the attorney or party at the last known address or by sending it by electronic means to
9 the electronic mail address listed on papers that the attorney or party has submitted in the
10 case. Service shall be complete upon mailing or electronic transmission. If a serving party
11 learns that the mailing or electronic transmission did not reach the person to be served,
12 the serving party shall take reasonable steps to immediately re-serve the party to be
13 served, unless service is refused, in which case the serving party shall not be required to
14 take additional action.

15 (9) Filing.

16 (a) Unless electronic filing procedures established in Section 8 of this
17 administrative regulation are used, a paper~~document~~ shall not be deemed filed with the
18 commission until it is physically received by the executive director at the commission's
19 offices during the commission's official business hours and the paper meets all applicable
20 requirements.

21 (b) The executive director shall endorse upon each paper or document accepted
22 for filing the date of its filing. The endorsement shall constitute the filing of the paper or
23 document.

1 (10) Privacy protection for filings.

2 (a) If a party files a paper~~[document]~~ containing an individual's Social Security
3 number, taxpayer identification number, birth date, or a financial account number, the
4 party shall redact the document so the following information cannot be read:

- 5 1. The digits of the Social Security number or taxpayer identification number;
- 6 2. The month and day of an individual's birth; and
- 7 3. The digits of the financial account number.

8 (b) To redact the paper~~[document]~~, the filing party shall replace the identifiers with
9 neutral placeholders or cover the identifiers with an indelible mark, that so obscures the
10 identifiers that they cannot be read.

11 (c) The executive director shall not be required to review papers~~[documents]~~ for
12 compliance with this section. The responsibility to redact a document shall rest with the
13 party that files the document.

14 (11) Intervention and parties.

15 (a)~~[In a formal proceeding,]~~ A person who wishes to become a party to a
16 case~~[proceeding]~~ before the commission may, by timely motion, request~~[that]~~ leave to
17 intervene~~[be granted]~~. The motion shall include the movant's name and address and shall
18 state his or her interest in the case~~[proceeding]~~ and how intervention is likely to present
19 issues or develop facts that will assist the commission in fully considering the matter
20 without unduly complicating or disrupting the proceedings.

21 (b) The commission shall grant a person leave to intervene if the commission finds
22 that he has made a timely motion for intervention and that he~~[a person]~~ has a special
23 interest in the case that is not otherwise adequately represented or that his intervention is

1 likely to present issues or to develop facts that assist the commission in fully considering
2 the matter without unduly complicating or disrupting the proceedings.

3 (c) Unless electronic filing procedures established in Section 8 of this
4 administrative regulation are used in the case, a party shall serve a person granted leave
5 to intervene with all papers~~[filed testimony, exhibits, papers, correspondence, and all~~
6 ~~other documents]~~ that the party submits in the case after the order granting intervention,
7 but is not required to provide any papers~~[documents]~~ submitted prior to the issuance of
8 that order unless the commission otherwise orders.

9 (d) Unless the commission finds good cause to order otherwise, a person granted
10 leave to intervene in a case shall, as a condition of his intervention, be subject to the
11 procedural schedule in existence in that case when the order granting the person's
12 intervention is issued.

13 (e) A person who the commission has not granted leave to intervene in a case
14 may file written comments regarding the subject matter of the case. These comments
15 shall be filed in the case record. A person filing written comments shall not be deemed a
16 party to the proceeding and need not be named as a party to an appeal.

17 (12) Requests for information.

18 (a) If permitted by administrative regulation or by order of the commission, a party
19 may in accordance with this section request information from another party to the case.
20 The requesting party shall serve its request upon the party from which it seeks the
21 requested information and shall also file its request with the commission.

22 (b) Commission Staff, through the commission's executive director, may request
23 information from any party to a case on the commission's behalf.

1 (c) Unless otherwise established in administrative regulation, the commission shall
2 establish by order in a case the time for parties to issue and to respond to requests for
3 information.

4 (d) Responses to requests for information.

5 1. Responses to requests for information shall be appropriately bound, tabbed,
6 and indexed.

7 2. Each response shall:

8 a. Include the name of the witness responsible for responding to the questions
9 related to the information provided; and

10 b. Be answered under oath or, for representatives of a public or private
11 corporation, a partnership, an association, or a governmental agency, be accompanied by
12 a signed certification of the preparer or person supervising the preparation of the
13 response on behalf of the person that the response is true and accurate to the best of that
14 person's knowledge, information, and belief formed after a reasonable inquiry.

15 3. If the requested information has previously been provided in the case, a
16 responding party may in lieu of providing the requested information, provide a reference
17 to the specific location of the requested information in the case record.

18 4. A responding party shall make timely amendment to its prior response if it
19 obtains information which indicates that the response was incorrect when made or,
20 though correct when made, is subsequently incorrect in any material respect.

21 5. If a party served with a request for information fails or refuses to furnish all or
22 part of the requested information, it shall provide a written explanation of the specific
23 grounds for its failure to completely and precisely respond.

1 6. The responding party shall file with the commission its response to a request for
2 information and shall serve it upon all parties to a case.

3 (e) A party shall compel compliance with its request for information by motion to
4 the commission, which shall include:

5 1. A description of the information requested;

6 2. The reasons why it is relevant to the issues in the case; and

7 3. The efforts taken to resolve any disagreement over the production of the
8 requested information.

9 (13) Each report, specification, drawing, and plan that a professional engineer or
10 professional land surveyor prepared and that is filed with the commission shall contain the
11 seal or stamp and signature of that professional engineer or land surveyor in accordance
12 with KRS 322.340.

13 (14) Consolidation of cases.

14 (a) The commission may order two or more proceedings involving a similar
15 question of law or fact to be consolidated where rights of the parties or the public interest
16 will not be prejudiced.

17 (b) When ordering the consolidation of cases, the commission shall specify into
18 which case the other case shall be consolidated.

19 (c) All papers received after the order of consolidation has been issued shall be
20 filed in the record of the designated case.

21 (d) Papers filed prior to the order of consolidation shall remain in their respective
22 case files.

1 Section 5. Motion Practice. (1) All requests for relief that are not required to be
2 made in an application, petition, or written request shall be by motion. A motion shall state
3 precisely the relief requested.

4 (2) Unless the commission orders otherwise, a party to a case shall file a response
5 to a motion no later than seven (7) days from the date of filing of a motion.

6 (3) Unless the commission orders otherwise, a party shall file a reply no later than
7 five (5) days of the filing of the most recent response to the party's motion. The reply shall
8 be confined to points raised in the responses to which they are addressed, and shall not
9 reiterate an argument already presented.

10 Section 6. Proof~~[Certificate]~~ of Service. (1) Except as provided in Section 8 of this
11 administrative regulation, all papers filed in a case shall contain proof of the date and
12 manner of service of the papers on all parties~~[All documents served pursuant to 807 KAR~~
13 ~~Chapter 5 shall have a proof of service certification. Proof of service shall state the date~~
14 ~~and method of service and shall be signed by a person who can verify service].~~

15 (2) Proof shall be made by certificate of the filer's attorney, by affidavit of the
16 person who served the papers, or by any proof satisfactory to the commission.

17 (3) The certificate or affidavit shall identify by name the person served and the date
18 and method of service.

19 (4) Proof of electronic service shall state the electronic notification address of the
20 person served.

21 Section 7. Filing Procedures. (1) Unless the commission orders otherwise or the
22 electronic filing procedures established in Section 8 of this administrative regulation are

1 used, if a paper~~[document in paper medium]~~ is filed with the commission, an original
2 unbound and ten (10) additional copies in paper medium shall~~[also]~~ be filed.

3 (2) Each paper~~[All documents]~~ filed with the commission shall conform to the
4 requirements established in this subsection.

5 (a) Form. Each filing shall be printed or typewritten, double spaced, and on one (1)
6 side of the page only.

7 (b) Size. Each filing shall be on eight and one-half (8 1/2) inches by eleven (11)
8 inches paper.

9 (c) Font. Each filing shall be in type no smaller than twelve (12) point, except
10 footnotes, which may be in type no smaller than ten (10) point.

11 ~~[(d) Binding. A side-bound or top-bound filing shall also include an identical~~
12 ~~unbound copy.]~~

13 (3) Except as provided for in Section 8 of this administrative regulation, a filing
14 made with the commission outside its business hours shall be considered as filed on the
15 commission's next business day.

16 (4) A paper~~[document]~~ submitted by facsimile transmission shall not be accepted.

17 Section 8. Electronic Filing Procedures. (1) Upon an applicant's timely election of
18 the use of electronic filing procedures or upon order of the commission in a case that the
19 commission has initiated on its own motion, the procedures established in this section
20 shall be used in lieu of other filing procedures established in this administrative regulation.

21 (2) At least seven (7) days prior to the submission of its application, an applicant
22 shall:

1 (a) File with the commission written notice of its election to use electronic filing
2 procedures using the Notice of Election of Use of Electronic Filing Procedures form; and

3 (b) If it does not have an account for electronic filing with the commission, register
4 for an account at <http://psc.ky.gov/Account/Register>.

5 (3) All papers~~[, documents, and exhibits]~~ shall be filed with the commission by
6 uploading an electronic version~~[of the document]~~ using the commission's E-Filing System
7 at <http://psc.ky.gov>. In addition, the filing party shall file one (1) copy in paper
8 medium~~[original]~~ with the commission as required by subsection (12)(a)2. of this section.

9 (4)(a) Audio or video files.

10 1. A file containing audio material shall be submitted in MP3 format.

11 2. A file containing video material shall be submitted in MPEG-4 format.

12 (b) Except as established in paragraph (a) of this subsection, each file in an
13 electronic submission shall be:

14 1. In portable document format;

15 2. Search-capable;

16 3. Optimized for viewing over the Internet;

17 4. Bookmarked to distinguish sections of the paper, except that documents filed in
18 response to requests for information need not be individually bookmarked; and

19 5. If~~[a]~~ scanned material~~[document]~~, scanned at a resolution of~~[no less than]~~ 300
20 dots per inch.

21 (5)(a) Each electronic submission shall include an introductory file in portable
22 document format that is named "Read1st" and that contains:

23 1. A general description of the filing;

1 2. A list of all material to be filed in paper or physical medium but not included in
2 the electronic submission[filing]; and

3 3. A statement that the materials in the electronic submission are a true
4 representation of the materials in paper medium[~~attesting that the electronically filed~~
5 ~~documents are a true representation of the original documents~~].

6 (b) The "Read1st" file and any other material[~~document~~] that normally contains a
7 signature shall contain a signature in the electronically submitted document.

8 (c) The electronic version of the cover letter accompanying the paper medium filing
9 may be substituted for a general description.

10 ~~[(d) If the electronic submission does not include all documents contained in the~~
11 ~~paper medium version, the absence of these documents shall be noted in the "Read1st"~~
12 ~~document.]~~

13 (6)(a) An[~~electronic transmission or~~] uploading session shall not exceed twenty
14 (20) files or 100 megabytes.

15 (b) An individual file shall not exceed thirty (30)[~~fifty (50)~~] megabytes.

16 (c) If a[~~filing party's~~] submission exceeds the limitations established in paragraph
17 (a) or (b) of this subsection, the filer shall make electronic submission in two (2) or more
18 consecutive[~~electronic transmission or~~] uploading sessions.

19 (7) If filing a paper[~~document~~] with the commission, the filing party shall certify that:

20 (a) The electronic version of the paper[filing] is a true and accurate copy of each
21 paper[~~document~~] filed in paper medium;

22 (b) The electronic version of the paper[filing] has been submitted[~~transmitted~~] to
23 the commission; and

1 (c) A copy of the paper~~[filing]~~ in paper medium has been mailed to all parties that
2 the commission has excused from electronic filing procedures~~[participation by electronic~~
3 ~~means]~~.

4 (8)(a) Upon completion of an uploading session, the commission shall notify all
5 parties of record by electronic mail that an electronic submission has been made~~[a party's~~
6 ~~uploading of an electronic submission, the commission shall cause an electronic mail~~
7 ~~message to be sent to all parties of record advising that an electronic submission has~~
8 ~~been made to the commission]~~.

9 (b) Upon its receipt of this notification, each party shall be solely responsible for
10 accessing the commission's Web site at <http://psc.ky.gov> to view or download the
11 submission~~[a party's receipt of this message, it shall be the receiving party's responsibility~~
12 ~~to access the commission's electronic file depository at <http://psc.ky.gov> and view or~~
13 ~~download the submission]~~.

14 (9) Unless a party objects to the use of electronic filing procedures in its motion for
15 intervention, it shall~~[granted leave states its objection to the use of electronic filing~~
16 ~~procedures in a motion for intervention, a party granted leave to intervene shall]~~:

17 (a) Be deemed to have consented to the use of electronic filing procedures and the
18 service of all papers, including orders of the commission, by electronic means; and

19 (b) File with the commission within seven (7) days of the date of an order of the
20 commission granting the party's intervention a written statement that:

21 1. The party waives any right to service of commission orders by United States
22 mail; and

1 2. The party, or the party's authorized agent, possesses the facilities to receive
2 electronic transmissions.

3 (10) In cases where the commission has ordered the use of electronic filing
4 procedures on its own motion, unless a party files with the commission an objection to the
5 use of electronic filing procedures within seven (7) days of issuance of the order directing
6 the use of electronic filing procedures, the party shall~~Unless a party to a case states an~~
7 ~~objection to the use of electronic filing procedures within seven (7) days of issuance of an~~
8 ~~order in which the commission orders the use of electronic filing procedures on its own~~
9 ~~motion, that party shall]:~~

10 (a) Be deemed to have consented to the use of electronic filing procedures and the
11 service of all~~documents and~~ papers, including orders of the commission, by electronic
12 means; and

13 (b) File with the commission within seven (7) days of the date of an order directing
14 the use of electronic filing procedures a written statement that:

15 1. The party waives any right to service of commission orders by United States
16 mail; and

17 2. The party, or the party's authorized agent, possesses the facilities to receive
18 electronic transmissions.

19 (11) If a party objects to the use of electronic filing procedures and good cause
20 exists to excuse it~~[that party]~~ from the use of electronic filing procedures, service of
21 papers on and by it~~[documents on that party and by that party]~~ shall be made in
22 accordance with Section 4(8) of this administrative regulation.

23 (12)(a) A paper~~[document]~~ shall be considered timely filed with the commission if:

1 1. It has been successfully transmitted in electronic medium to the commission
2 within the time allowed for filing and meets all other requirements established in this
3 administrative regulation and any[~~an~~] order of the commission; and

4 2. The paper[~~original document~~], in paper medium, is filed at the commission's
5 offices no later than the second business day following the successful electronic
6 transmission[~~filing~~].

7 (b) Each party shall attach to the top of the paper medium submission a copy in
8 paper medium of the electronic notification[~~mail message~~] from the commission
9 confirming[~~transmission and~~] receipt of its electronic submission.

10 (13) Except as expressly provided in this section, a party making a filing in
11 accordance with the procedures established in this section shall not be required to comply
12 with Section 4(8) of this administrative regulation.

13 Section 9. Hearings and Rehearings. (1) Unless a hearing is not required by
14 statute, is waived by the parties in the case, or is found by the commission to be
15 unnecessary for protection of substantial rights or not in the public interest, the
16 commission shall conduct a hearing if[~~required by statute, waived by the parties in the~~
17 ~~case, or if the commission finds that a hearing is not necessary in the public interest or for~~
18 ~~the protection of substantial rights, the commission shall grant a hearing in the following~~
19 ~~classes of cases~~]:

20 (a)[~~if~~] An order to satisfy or answer a complaint has been made and the person
21 complained of has not satisfied the complaint to the commission's satisfaction[~~of the~~
22 ~~commission~~]; or

1 (b) A request for hearing has been made~~[If an application has been made in a~~
2 ~~formal proceeding].~~

3 (2) Publication of notice.

4 (a) Upon the filing of an application, the commission may order an applicant to give
5 notice on all~~[other]~~ persons who may be affected by servicing~~[service of]~~ a copy of the
6 application upon those persons or by publishing notice of the filing~~[publication]~~. The
7 applicant shall bear the expense of providing the notice. If the notice is given by
8 publication, the commission may designate the contents of the notice and the length of
9 time and the newspaper in which the notice shall appear.~~[Proof of the publication shall be~~
10 ~~filed at or before the hearing.]~~

11 (b) 1. The commission may order an applicant to give notice to the public of any
12 hearing on the applicant's application, and shall order an applicant for a general
13 adjustment of rates or reduction or discontinuance of service to give notice of any hearing
14 on its application.

15 2. If notice of a hearing~~[pursuant to KRS 424.300]~~ is published by the applicant in a
16 newspaper, it shall be published at least one (1) time not less than seven (7) nor more
17 than twenty-one (21) days prior to the hearing in a newspaper of general circulation in the
18 areas that will be affected.

19 3. Notice by mail shall be mailed not less than fourteen (14) days nor more than
20 twenty-one (21) days prior to the hearing.

21 4. Notice of hearing shall state the purpose, time, place, and date of hearing.

1 ~~5.[one (1) time not less than seven (7) nor more than twenty-one (21) days prior to~~
2 ~~the hearing giving the purpose, time, place, and date of hearing.]~~ The applicant shall bear
3 the expense of providing the notice.

4 6. Proof of publication shall be filed at or before the hearing.

5 (3) Investigation on commission's own motion. The commission may, on its own
6 motion, conduct investigations and order hearings into any act or thing done or omitted to
7 be done by a utility, which the commission believes is in violation of an order of the
8 commission or KRS Chapters 74 or[Chapter] 278 or 807 KAR Chapter 5. The
9 commission may also, through its own experts or employees, or otherwise, obtain
10 evidence the commission finds necessary or desirable in a formal proceeding in addition
11 to the evidence presented by the parties.

12 (4) Conferences with commission staff. The commission, on its own motion,
13 through its executive director or upon a motion of a party, may convene a conference in a
14 case for the purpose of considering the possibility of settlement, the simplification or
15 clarification of issues, or any other matter that may aid in the handling and disposition of
16 the case. Unless the commission directs otherwise or the parties otherwise agree,
17 participation in conferences with commission staff shall be limited to parties of the subject
18 proceeding and their representatives.

19 (5) Conduct of hearings. Hearings shall be conducted before the commission or a
20 commissioner or before a person designated by the commission to conduct a specific
21 hearing.

22 (6) Stipulation of facts. By a stipulation in writing filed with the commission, the
23 parties to a case[proceeding or investigation by the commission] may agree among

1 themselves or with Commission Staff upon the facts or any portion of the facts involved in
2 the controversy, which stipulation shall be regarded and used as evidence at the hearing.

3 (7) Testimony. All testimony given before the commission shall be given under
4 oath or affirmation.

5 (8) Objections and exceptions. A party objecting to the admission or exclusion of
6 evidence before the commission shall state the grounds for objection. Formal exceptions
7 shall not be necessary and shall not be taken to rulings on objection.

8 (9) Record of evidence.

9 (a) The commission shall cause to be made a record of all hearings. Unless the
10 commission orders otherwise, this record shall be a digital video recording.

11 1. A party to a case may, by motion made prior to the hearing, request that a
12 stenographic transcript be made by a qualified~~[commission-authorized]~~ reporter.

13 2. The commission shall grant the motion.

14 3. The requesting party shall bear the cost of the stenographic transcript and shall
15 ensure that a copy of the transcript is filed with the commission within a reasonable time
16 after completion of the hearing.

17 (b) The executive director~~[commission]~~ shall cause to be made a written exhibit
18 list, a written hearing log, and a written log listing the date and time of where each
19 witness' testimony begins and ends on the digital video recording.

20 (c) If a party introduces an exhibit that is neither a document nor a photograph, the
21 commission may direct a photograph of the exhibit be substituted for the exhibit.

22 Section 10. Briefs. Each brief shall be filed within the time fixed. A request for
23 extension of time to file a brief shall be made to the commission by written motion.

1 Section 11. Documentary Evidence. (1) If documentary evidence is offered, the
2 commission, in lieu of requiring the originals to be filed, may accept certified, or otherwise
3 authenticated, copies of the documents or portions of the same as may be relevant, or
4 may require evidence to be entered as a part of the record.

5 (2) If relevant and material matter offered in evidence by any party is embraced in
6 a book, paper, or document containing other matter not material or relevant, the party
7 shall plainly designate the matter so offered. If immaterial matter unnecessarily
8 encumbers the record, the book, paper, or document shall not be received in evidence,
9 but may be described for identification, and if properly authenticated, the relevant and
10 material matter may be read into the record, or if the commission, or commissioner
11 conducting the hearing, so directs, a true copy of the matter in proper form shall be
12 received as an exhibit, and like copies delivered by the parties offering same to opposing
13 parties, or their attorneys, appearing at the hearing, who shall be offered the opportunity
14 to examine the book, paper, or document, and to offer evidence in like manner other
15 portions thereof if found to be material and relevant.

16 (3) The sheets of each exhibit shall be numbered. If practical, the lines of each
17 sheet shall also be numbered. If the exhibit consists of two (2) or more sheets, the first
18 sheet or title page shall contain a brief statement of what the exhibit purports to show,
19 with reference by sheet and line to illustrative or typical examples contained in the exhibit.
20 Rate comparisons and other evidence shall be condensed into tables.

21 (4) Except as expressly permitted in particular instances, the commission shall not
22 receive in evidence or consider as a part of the record a book, paper, or other document
23 for consideration in connection with the proceeding after the close of the testimony.

1 (5) Upon motion of a party to a proceeding, the record of a case in the
2 commission's files or any document on file with the commission may be made a part of
3 the record by "reference only."

4 (a)~~[By reference only,]~~ The case or document made a part of the record by
5 reference only shall not be physically incorporated into the record.

6 (b) Upon action in the Franklin Circuit Court, excerpts from the record of a case or
7 part of a document may be made a part of the record before the court, at the request of a
8 party.

9 Section 12. Financial Exhibit. (1) If this administrative regulation requires that a
10 financial exhibit be annexed to the application, the exhibit shall:

11 (a) For a utility that had \$5,000,000 or more in gross annual revenue in the
12 immediate past calendar year, cover operations for a consecutive twelve (12) month
13 period, the period ending not more than ninety (90) days prior to the date the application
14 is filed; or

15 (b) For a utility that had less than \$5,000,000 in gross annual revenue in the
16 immediate past calendar year, comply with paragraph (a) of this subsection or cover
17 operations for the consecutive twelve (12) month period contained in the utility's most
18 recent annual report on file with the commission, and contain a statement that no material
19 changes have occurred since the end of that twelve (12) month period.

20 (2) The exhibit shall disclose the following information in the order indicated:~~in~~
21 ~~subsections (1) through (9):~~

22 (a)~~(1)~~ Amount and kinds of stock authorized;

23 (b)~~(2)~~ Amount and kinds of stock issued and outstanding;

1 (c)~~(3)~~ Terms of preference of preferred stock, cumulative or participating, or on
2 dividends or assets or otherwise;

3 (d)~~(4)~~ A brief description of each mortgage on property of applicant, giving date of
4 execution, name of mortgagor, name of mortgagee or trustee, amount of indebtedness
5 authorized to be secured, and the amount of indebtedness actually secured, together with
6 sinking fund provisions, if applicable;

7 (e)~~(5)~~ Amount of bonds authorized and amount issued, giving the name of the
8 public utility that issued the same, describing each class separately and giving the date of
9 issue, face value, rate of interest, date of maturity, and how secured, together with
10 amount of interest paid during the last fiscal year;

11 (f)~~(6)~~ Each note outstanding, giving date of issue, amount, date of maturity, rate
12 of interest, in whose favor, together with amount of interest paid during the last fiscal year;

13 (g)~~(7)~~ Other indebtedness, giving same by classes and describing security, if any,
14 with a brief statement of the devolution or assumption of a portion of the indebtedness
15 upon or by person or corporation if the original liability has been transferred, together with
16 amount of interest paid during the last fiscal year[-];

17 (h)~~(8)~~ Rate and amount of dividends paid during the five (5) previous fiscal years,
18 and the amount of capital stock on which dividends were paid each year; and

19 (i)~~(9)~~ A detailed income statement and balance sheet.

20 Section 13. Confidential Material. (1) All material on file with the commission shall
21 be available for examination by the public unless the material is confidential.

22 (2) Procedure for determining confidentiality of material submitted in a case.

1 (a) A request for~~[person who requests]~~ confidential treatment of material shall be
2 made by~~[file a]~~ motion that:

3 1. Establishes specific grounds pursuant to KRS 61.878, upon which the
4 commission should classify that material as confidential;

5 2. States the time period in which the material should be treated as confidential
6 and the reasons for this time period; and

7 3. Includes ten (10) copies of the material in paper medium with those portions
8 obscured for which confidentiality is sought, and, in a separate sealed envelope marked
9 confidential, one (1) copy of the material in paper medium which identifies by
10 underscoring, highlighting with transparent ink, or other reasonable means only those
11 portions which unless redacted would disclose confidential material. Text pages or
12 portions thereof which do not contain confidential material shall not be included in this
13 identification. If confidential treatment is sought for an entire document,~~[unambiguous]~~
14 written notification that the entire document is confidential may be filed with the document
15 in lieu of the required highlighting.

16 (b)~~[The motion, one (1) copy of the material in paper medium which is identified by~~
17 ~~underscoring or highlighting, and ten (10) copies of the material in paper medium with~~
18 ~~those portions obscured for which confidentiality is sought, shall be filed with the~~
19 ~~commission. If confidential treatment is sought for an entire document, the filer may file a~~
20 ~~sheet noting that the entire document is confidential in lieu of redacting the document.~~

21 (c)~~] The motion and one (1) copy of the material in paper medium, with only those~~
22 ~~portions for which confidentiality is sought redacted, shall be served on all parties.[The~~
23 ~~motion shall contain a certificate of service on all parties.]~~

1 ~~(c)~~[(d)] The burden of proof to show that the material falls within the exclusions
2 from disclosure requirements enumerated in KRS 61.878 and to demonstrate the time
3 period for which the material should be considered as confidential shall be upon the
4 moving party~~[requesting confidential treatment]~~.

5 ~~(d)~~[(e)] Unless the Commission orders otherwise, a party may respond to a motion
6 for confidential treatment within seven (7) days after it is filed with the commission.

7 ~~(e)~~[(f)] If the case is being conducted using electronic filing procedures established
8 in Section 8 of this administrative regulation, the parties shall comply with those
9 procedures except that an unobscured copy of the material for which confidentiality is
10 sought shall not be transmitted electronically.

11 (3) Procedure for determining confidentiality of material submitted outside of a
12 case.

13 (a) A person who requests confidential treatment of material filed with the
14 commission outside of a case shall submit a written request to the executive director that:

15 1. Establishes specific grounds upon which the material should be classified as
16 confidential;

17 2. States the time period in which the material should be treated as confidential
18 and the reasons for this time period; and

19 3. Includes one (1) copy of the material in paper medium with those portions
20 redacted for which confidentiality is sought, and, in a separate sealed envelope marked
21 confidential, one (1) copy of the material in paper medium which identifies by
22 underscoring, highlighting with transparent ink, or other reasonable means only those
23 portions which unless redacted would disclose confidential material. Text pages or

1 portions thereof which do not contain confidential material shall not be included in this
2 identification. If confidential treatment is sought for an entire document,~~[unambiguous]~~
3 written notification that the entire document is confidential may be filed with the document
4 in lieu of the required highlighting.

5 ~~(b)[The written request, one (1) copy of the material in paper medium which is~~
6 ~~identified by underscoring or highlighting, and one (1) copy of the material in paper~~
7 ~~medium with those portions redacted for which confidentiality is sought, shall be filed with~~
8 ~~the commission. If confidential treatment is sought for an entire document, the filer may~~
9 ~~file a sheet noting that the entire document is confidential in lieu of redacting the~~
10 ~~document.~~

11 ~~(e)]~~ The burden of proof to show that the material falls within the exclusions from
12 disclosure requirements established in KRS 61.878 and to demonstrate the time period
13 for which the material should be considered as confidential shall be upon the person
14 requesting confidential treatment.

15 ~~(c)[(d)]~~ The executive director, as official custodian of the commission's records,
16 shall determine if the material is~~[falls]~~ within an exclusion~~[the exclusions from disclosure~~
17 ~~requirements]~~ established in KRS 61.878 and the time period for which the material
18 should be considered as confidential and shall advise the requestor of his~~[the]~~
19 determination by letter.

20 ~~(d)[(e)]~~ A person whose request for confidential treatment is denied, in whole or in
21 part, by the executive director may make application within twenty (20) days of the
22 executive director's decision to~~[petition]~~ the commission for confidential treatment of the
23 material in accordance with the procedures established in subsection (2) of this section.

1 The commission shall establish a case and shall review the application~~petition~~ without
2 regard to the executive director's determination and in the same manner as it would
3 review a motion for confidential treatment made pursuant to subsection (2) of this section.

4 The application shall comply with the requirements of subsection (2)(a) of this section.

5 ~~(e)~~~~(f)~~ If the executive director denies a request for confidential treatment, the
6 material for which confidential treatment was sought shall not be placed in the public
7 record for twenty (20) days following his decision~~[to allow the requesting party to petition~~
8 ~~the commission]~~.

9 (4) Pending action by the commission on a motion for confidential treatment or by
10 its executive director on a request for confidential treatment, the material specifically
11 identified shall be accorded confidential treatment.

12 (5) If the~~petition or~~ motion for confidential treatment of material is denied, the
13 material shall not be placed in the public record for the period permitted pursuant to KRS
14 278.410 to bring an action for review.

15 (6) Procedure for a party to request access to confidential material filed in a
16 case~~proceeding~~.

17 (a) A party to a case before the commission shall not fail to respond to a request
18 for information by the commission, commission staff, or another party on grounds of
19 confidentiality~~[proceeding before the commission shall not fail to respond to discovery by~~
20 ~~the commission or its staff or another party to the proceeding on grounds of~~
21 ~~confidentiality]~~.

22 1. A party seeking confidential treatment for its response to information requests
23 shall follow the procedures for requesting confidentiality established in this administrative

1 regulation~~[If a party responding to discovery requests seeks to have a portion or all of the~~
2 ~~response held confidential by the commission, the party shall follow the procedures for~~
3 ~~petitioning for confidentiality established in this administrative regulation].~~

4 2. A party's response to~~[discovery]~~ requests for information shall be served upon
5 all parties, with only those portions for which confidential treatment is sought redacted.

6 (b) If the commission grants confidential protection to the responsive material and
7 if parties have not entered into protective agreements, then a party may, by motion,
8 request~~[petition the commission requesting]~~ access to the material on the grounds that it
9 is essential to the party's~~[a]~~ meaningful participation in the proceeding.

10 1. The motion~~[petition]~~ shall include a description of efforts to enter into a
11 protective agreement and unwillingness, if applicable, to enter into a protective agreement
12 shall be fully explained.

13 2. A party may respond to the motion~~[petition]~~ within seven (7) days after it is filed
14 with the commission.

15 3. The commission shall determine if the movant~~[petitioner]~~ is entitled to the
16 material, and the manner and extent of the disclosure necessary to protect confidentiality.

17 (7) Requests for access to records pursuant to KRS 61.870 to 61.884. A time
18 period prescribed in subsection (10)(a) of this section shall not limit the right of a person
19 to request access to commission records pursuant to KRS 61.870 to 61.884. Upon a
20 request filed pursuant to KRS 61.870 to 61.884, the commission shall respond in
21 accordance with the procedure established in KRS 61.880.

22 (8) Procedure for request for access to confidential material. A person denied
23 access to records requested pursuant to KRS 61.870 to 61.884 or to material deemed

1 confidential by the commission in accordance with the procedures established in this
2 section, may obtain this information only pursuant to KRS 61.870 to 61.884 and other
3 applicable law.

4 (9) Use of confidential material~~[during formal proceedings]~~.

5 (a) A person that files any paper that contains material that has previously been
6 deemed confidential or for which a request or motion for confidential treatment is pending
7 shall submit one (1) copy of the paper with the adjudged or alleged confidential material
8 underscored or highlighted, and ten (10) copies of the paper with those portions redacted;
9 ~~and[A party that files material that contains or reveals material that has previously been~~
10 ~~deemed confidential shall submit with the filed material:]~~

11 1. If the confidential status of the material has been determined previously, a
12 written notice identifying the person that originally submitted the material, the date on
13 which a determination on the materials confidentiality was made and, if applicable, the
14 case number in which the determination was made; or~~[A written notice identifying the~~
15 ~~date on which the confidentiality of the original material was determined and, if applicable,~~
16 ~~the case number in which the determination was made; and]~~

17 2. If a request for confidential treatment of the material is pending, a written notice
18 identifying the person who made the request and the date on which the request was
19 submitted~~[One (1) copy of the filed material identified by underscoring or highlighting, and~~
20 ~~ten (10) copies of the material with those portions redacted for which confidentiality has~~
21 ~~previously been granted]~~.

22 (b) Material deemed confidential by the commission may be addressed and relied
23 upon during a formal hearing by the procedure established in this paragraph.

1 1. The party seeking to address the confidential material shall advise the
2 commission prior to the use of the material.

3 2. A person other than commission employees not a party to a protective
4 agreement related to the confidential material shall be excluded~~[excused]~~ from the
5 hearing room during testimony~~[direct testimony and cross-examination]~~ directly related to
6 confidential material.

7 3. Any portion of the record directly related to the confidential material shall be
8 sealed.

9 (10) Material granted confidentiality that later becomes publicly available or
10 otherwise no longer warrants confidential treatment.

11 (a) Except as provided for in paragraphs (c) and (d) of this subsection, confidential
12 treatment shall be afforded to material for the period specified in the commission's order
13 or executive director's written decision. At the end of this period, the material shall be
14 placed in the public record without notice to the person who originally requested
15 confidential treatment. The person who sought confidential treatment for the material may
16 request that the material continue to be treated as confidential but shall demonstrate that
17 the material still falls within the exclusions from disclosure requirements established in
18 KRS 61.878.

19 (b) The person~~[petitioner]~~ who sought confidential protection shall inform the
20 commission in writing if material granted confidentiality becomes publicly available.

21 (c) If the commission becomes aware that material granted confidentiality is
22 publicly available or otherwise no longer qualifies for confidential treatment, it shall by
23 order so advise the person~~[petitioner]~~ who sought confidential protection, giving ten (10)

1 days to respond. If that material has been disclosed by someone other than the person
2 who requested confidential treatment, in violation of a protective agreement or
3 commission order, the information shall not be deemed or considered to be publicly
4 available and shall not be placed in the public record.

5 (d) If a request to inspect material granted confidential treatment is made during
6 the period specified in the commission's order or executive director's written decision, the
7 commission shall notify in writing the person who originally sought confidential treatment
8 for the material and direct him to demonstrate within twenty (20) days of his receipt of the
9 notice that the material still falls within the exclusions from disclosure requirements
10 established in KRS 61.878. If he is unable to make the demonstration, the commission
11 shall make the requested materials available for public inspection. Otherwise, the
12 commission shall deny the request for inspection.

13 (e) The material shall not be placed in the public record for twenty (20) days
14 following an order finding that the material no longer qualifies for confidential treatment to
15 allow the petitioner to seek a remedy afforded by law.

16 Section 14. Applications. (1) Each application shall state~~[Contents of application.~~
17 ~~Each application shall be by petition. The petition shall establish]~~ the full name, mailing
18 address, and electronic mail address of the applicant, and shall contain fully the facts on
19 which the application is based, with a request for the order, authorization, permission, or
20 certificate desired and a reference to the particular law requiring or providing for same.

21 (2) If the applicant is a corporation, a statement identifying the state in which it is
22 incorporated and the date of its incorporation, attesting that it is currently in good standing

1 in the state in which it is incorporated, and stating, if it is not a Kentucky corporation,
2 whether it is authorized to transact business in Kentucky.

3 (3) If the applicant is a limited liability company, a statement identifying the state in
4 which it is organized and the date on which it was organized, attesting that it is in good
5 standing in the state in which it is organized, and stating, if it is not a Kentucky limited
6 liability company, whether it is authorized to transact business in Kentucky.

7 ~~(4)[Articles of incorporation.~~

8 ~~(a) If the applicant is a corporation, a certified copy of its articles of incorporation~~
9 ~~and all amendments, if any, shall be annexed to the application, or a written statement~~
10 ~~attesting that its articles and all amendments have been filed with the commission in a~~
11 ~~prior proceeding and referencing the case number of the prior proceeding.~~

12 ~~(b) If the applicant is a limited liability company, a certified copy of its articles of~~
13 ~~organization and all amendments, if any, shall be annexed to the application, or a written~~
14 ~~statement attesting that its articles and all amendments have been filed with the~~
15 ~~commission in a prior proceeding and referencing the case number of the prior~~
16 ~~proceeding.~~

17 ~~(c)] If the applicant is a limited partnership, a certified copy of its limited partnership~~
18 ~~agreement and all amendments, if any, shall be annexed to the application, or a written~~
19 ~~statement attesting that its partnership agreement and all amendments have been filed~~
20 ~~with the commission in a prior proceeding and referencing the case number of the prior~~
21 ~~proceeding.~~

22 Section 15. Applications for Certificates of Public Convenience and Necessity. (1)
23 Application to bid on a franchise pursuant to KRS 278.020(3).

1 (a) Upon application to the commission by the utility for a certificate of convenience
2 and necessity authorizing the applicant to bid on a franchise, license, or permit offered by
3 a governmental agency, the applicant shall submit with its application~~[, the following]:~~

4 1. The information required pursuant to Section 14 of this administrative
5 regulation~~[(a) A copy of its articles of incorporation, partnership agreement, or articles of~~
6 ~~organization pursuant to Section 14(2) of this administrative regulation];~~

7 2.~~[(b)]~~ The name of the governmental agency offering the franchise;

8 3.~~[(c)]~~ The type of franchise offered; and

9 4.~~[(d)]~~ A statement showing the need and demand for service.

10 (b) If an~~the~~ applicant is successful in acquiring the franchise, license, or permit, it
11 shall file a copy with the commission using the commission's electronic tariff filing system.

12 (2) New construction or extension. Upon application~~[by the utility, person, firm, or~~
13 ~~corporation]~~ for a certificate that the present or future public convenience or necessity
14 requires, or will require, the construction or extension of any plant, equipment, property,
15 or facility, the applicant, in addition to complying with Section 14 of this administrative
16 regulation, shall submit with its~~the following data, either in the~~ application~~[or as attached~~
17 ~~exhibits]:~~

18 (a) The facts relied upon to show that the proposed~~new~~ construction or extension
19 is or will be required by public convenience or necessity;

20 (b) Copies of franchises or permits, if any, from the proper public authority for the
21 proposed~~new~~ construction or extension, if not previously filed with the commission;

22 (c) A full description of the proposed location, route, or routes of the proposed~~new~~
23 construction or extension, including a description of the manner in which same will be

1 constructed, and~~[also]~~ the names of all public utilities, corporations, or persons with whom
2 the proposed~~[new]~~ construction or extension is likely to compete;

3 (d) One (1) copy in portable document format on electronic storage medium and
4 two (2) copies in paper medium of:

5 1. Maps to suitable scale showing the location or route of the proposed~~[new]~~
6 construction or extension, as well as the location to scale of like facilities owned by others
7 located anywhere within the map area with adequate identification as to the ownership of
8 the other facilities; and

9 2. Plans and specifications and drawings of the proposed plant, equipment, and
10 facilities~~[. The utility shall supply one (1) copy of each map in an electronic format and~~
11 ~~one (1) copy of each map in a paper format];~~

12 (e) The manner in detail in which the applicant proposes~~[it is proposed]~~ to finance
13 the proposed~~[new]~~ construction or extension; and

14 (f) An estimated annual cost of operation after the proposed facilities are placed
15 into service~~; and~~

16 ~~(g) All other information necessary to afford the commission a complete~~
17 ~~understanding of the situation].~~

18 (3) Extensions in the ordinary course of business. A certificate of public
19 convenience and necessity shall not be required for extensions that do not create
20 wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing
21 certificates or service of other utilities operating in the same area and under the
22 jurisdiction of the commission that are in the general or contiguous area in which the utility
23 renders service, and that do not involve sufficient capital outlay to materially affect the

1 existing financial condition of the utility involved, or will not result in increased charges to
2 its customers.

3 (4) Renewal applications.~~[As procedure is concerned,]~~ An application for a renewal
4 of a certificate of convenience and necessity shall be treated as an original application.

5 Section 16. Applications for General Adjustments ~~of~~~~[in]~~ Existing Rates. (1) Each
6 application requesting a general adjustment ~~of~~~~[in]~~ existing rates shall:

7 (a) Be supported by:

8 1. A twelve (12) month historical test period that may include adjustments for
9 known and measurable changes; or

10 2. A fully forecasted test period; and

11 (b) Include:

12 1. A statement of the reason the adjustment is required;

13 2.~~[If the utility is incorporated or is a limited partnership, a certificate of good~~
14 ~~standing or certificate of authorization dated within sixty (60) days of the date the~~
15 ~~application is filed;~~

16 3.~~]~~ A certified copy of a certificate of assumed name as required by KRS 365.015
17 or a statement that a certificate is not necessary;

18 3~~[4]~~. New or revised tariff sheets, if applicable in a format that complies with 807
19 KAR 5:011 with an effective date not less than thirty (30) days from the date the
20 application is filed;

21 4~~[5]~~. New or revised tariff sheets, if applicable, identified in compliance with 807
22 KAR 5:011, shown either by:

1 a. Providing the present and proposed tariffs in comparative form on the same
2 sheet side by side or on facing sheets side by side; or

3 b. Providing a copy of the present tariff indicating proposed additions by italicized
4 inserts or underscoring and striking over proposed deletions; and

5 5[6]. A statement that[customer] notice has been given in compliance with Section
6 17 of this administrative regulation[subsections (3) and (4) of this section] with a copy of
7 the notice.

8 6. If a water district proposes to increase any current rate for service or implement
9 a new rate for service, a statement from an authorized official of the district indicating the
10 date the proposed rate increase or new rate was reported to the governing body of the
11 county in which the largest number of its customers resides and the date it presented
12 testimony, or is scheduled to present testimony, to that governing body.

13 (2) Notice of intent. A utility with gross annual revenues greater than \$5,000,000
14 shall notify the commission in writing of its intent to file a rate application at least thirty
15 (30) days, but not more than sixty (60) days, prior to filing its application.

16 (a) The notice of intent shall state if the rate application will be supported by a
17 historical test period or a fully forecasted test period.

18 (b) Upon filing the notice of intent, an application may be made to the commission
19 for permission to use an abbreviated form of newspaper notice of proposed rate
20 increases provided the notice includes a coupon that may be used to obtain a copy from
21 the applicant of the full schedule of increases or rate changes.

22 (c) When filing the notice of intent with the commission, the applicant shall mail to
23 the Attorney General's Office of Rate Intervention a copy of the notice of intent or send by

1 electronic mail in a portable document format, to rateintervention@ag.ky.gov[The
2 applicant shall also transmit by electronic mail a copy of the notice in a portable document
3 format, to the Attorney General's Office of Rate Intervention at
4 rateintervention@ag.ky.gov].

5 (3) Notice given pursuant to Section 17 of this administrative regulation shall
6 satisfy the requirements of 807 KAR 5:051, Section 2.

7 ~~(4)[Manner of notification.~~

8 ~~(a) If the utility has twenty (20) or fewer customers or is a sewage utility, it shall:~~

9 ~~1. Mail written notice to each customer no later than the date on which the~~
10 ~~application is filed with the commission. The notice shall meet the requirements~~
11 ~~established in subsection (4) of this section;~~

12 ~~2. Post at its place of business no later than the filed date of the application a~~
13 ~~sheet containing the information provided in the written notice to its customers; and~~

14 ~~3. Keep the notice posted until the commission has issued a final decision on the~~
15 ~~application.~~

16 ~~(b) An applicant that has more than twenty (20) customers and is not a sewage~~
17 ~~utility shall post at its place of business a sheet containing the information required by~~
18 ~~subsection (4) of this section and shall:~~

19 ~~1. Include notice with customer bills mailed by the date the application is filed;~~

20 ~~2. Publish notice in a trade publication or newsletter going to all customers by the~~
21 ~~date the application is filed; or~~

1 ~~3. Publish notice once a week for three (3) consecutive weeks in a prominent~~
2 ~~manner in a newspaper of general circulation in the utility's service area, the first~~
3 ~~publication to be made by the date the application is filed.~~

4 ~~(c) Utilities providing service in multiple counties may use a combination of the~~
5 ~~notice methods listed in paragraph (b) of this subsection.~~

6 ~~(d) Notice given pursuant to this administrative regulation shall satisfy the~~
7 ~~requirements of 807 KAR 5:051, Section 2.~~

8 ~~(4) Notice Requirements. Each notice shall contain the following information:~~

9 ~~(a) The present rates and proposed rates for each customer class to which the~~
10 ~~proposed rates will apply;~~

11 ~~(b) The amount of the change requested in both dollar amounts and percentage~~
12 ~~change for customer classification to which the proposed rate change will apply;~~

13 ~~(c) The amount of the average usage and the effect upon the average bill for each~~
14 ~~customer class to which the proposed rate change will apply, except for local exchange~~
15 ~~companies, which shall include the effect upon the average bill for each customer class~~
16 ~~for the proposed rate change in basic local service;~~

17 ~~(d) A statement that the rates contained in this notice are the rates proposed by~~
18 ~~(name of utility) but that the Public Service Commission may order rates to be charged~~
19 ~~that differ from the proposed rates contained in this notice;~~

20 ~~(e) A statement that a corporation, association, or person may within thirty (30)~~
21 ~~days after the initial publication or mailing of notice of the proposed rate changes, submit~~
22 ~~a written request to intervene to the Public Service Commission, 211 Sower Boulevard,~~
23 ~~P.O. Box 615, Frankfort, Kentucky 40602 that establishes the grounds for the request~~

1 including the status and interest of the party, and states that intervention may be granted
2 beyond the thirty (30) day period for good cause shown;

3 ~~(f) A statement that written comments regarding the proposed rate may be~~
4 ~~submitted to the Public Service Commission by mail or through the Public Service~~
5 ~~Commission's Web site;~~

6 ~~(g) A statement that a person may examine this filing and any other documents the~~
7 ~~utility has filed with the Public Service Commission at the offices of (the name of the~~
8 ~~utility) located at (the utility's address) and on the utility's Web site at (the utility's Web site~~
9 ~~address), if the utility maintains a public Web site; and~~

10 ~~(h) A statement that this filing and any other related documents can be found on~~
11 ~~the Public Service Commission's Web site at <http://psc.ky.gov/>.~~

12 ~~(5) Proof of notice. An applicant shall file with the commission no later than forty-~~
13 ~~five (45) days from the date of the initial filing:~~

14 ~~(a) If its notice is published, an affidavit from the publisher verifying the notice was~~
15 ~~published, including the dates of the publication with an attached copy of the published~~
16 ~~notice;~~

17 ~~(b) If its notice is published in a trade publication or newsletter going to all~~
18 ~~customers, an affidavit from an authorized representative of the utility verifying the trade~~
19 ~~publication or newsletter was mailed; or~~

20 ~~(c) If the notice is mailed, an affidavit from an authorized representative of the~~
21 ~~utility verifying the notice was mailed.~~

22 ~~(6) Additional notice requirements. In addition to the notice requirements~~
23 ~~established in subsection (4) of this section:~~

1 ~~(a) A utility shall post a sample copy of the required notification at its place of~~
2 ~~business no later than the date on which the application is filed and shall not remove the~~
3 ~~notification until issuance of a final order from the commission establishing the utility's~~
4 ~~approved rates; and~~

5 ~~(b) A utility that maintains a public web site shall, within seven (7) days of filing an~~
6 ~~application, post a copy of the public notice as well as a hyperlink to its filed application~~
7 ~~on the commission's Web site and shall not remove the notification until issuance of a~~
8 ~~final order from the commission establishing the utility's approved rates.~~

9 ~~(7) Abbreviated form of notice. Upon written request, the commission may grant a~~
10 ~~utility permission to use an abbreviated form of published notice of the proposed rates,~~
11 ~~provided the notice includes a coupon that may be used to obtain all of the required~~
12 ~~information.~~

13 ~~(8) Notice of hearing scheduled by the commission upon application by a utility for~~
14 ~~a general adjustment in rates shall be advertised by the utility by newspaper publication in~~
15 ~~the areas that will be affected in compliance with KRS 424.300.~~

16 ~~(9)~~ Each application supported by a historical test period shall include the
17 following information or a statement explaining why the required information does not
18 exist and is not applicable to the utility's application:

19 (a) A complete description and quantified explanation for all proposed adjustments
20 with proper support for proposed changes in price or activity levels, if applicable, and
21 other factors that may affect the adjustment;

1 (b) If the utility has gross annual revenues greater than \$5,000,000, the
2 written~~prepared~~ testimony of each witness the utility proposes to use to support its
3 application;

4 (c) If the utility has gross annual revenues less than \$5,000,000, the
5 written~~prepared~~ testimony of each witness the utility proposes to use to support its
6 application or a statement that the utility does not plan to submit written~~prepared~~
7 testimony;

8 (d) A statement estimating the effect that each new rate will have upon the
9 revenues of the utility including, at minimum, the total amount of revenues resulting from
10 the increase or decrease and the percentage of the increase or decrease;

11 (e) If the utility provides electric, gas, water, or sewer service, the effect upon the
12 average bill for each customer classification to which the proposed rate change will apply;

13 (f) If the utility is an incumbent local exchange company, the effect upon the
14 average bill for each customer class for the proposed rate change in basic local service;

15 (g) A detailed analysis of customers' bills whereby revenues from the present and
16 proposed rates can be readily determined for each customer class;

17 (h) A summary of the utility's determination of its revenue requirements based on
18 return on net investment rate base, return on capitalization, interest coverage, debt
19 service coverage, or operating ratio, with supporting schedules;

20 (i) A reconciliation of the rate base and capital used to determine its revenue
21 requirements;

22 (j) A current chart of accounts if more detailed than the Uniform System of
23 Accounts prescribed by the commission;

1 (k) The independent auditor's annual opinion report, with written communication
2 from the independent auditor to the utility, if applicable, which indicates the existence of a
3 material weakness in the utility's internal controls;

4 (l) The most recent Federal Energy Regulatory Commission or Federal
5 Communication Commission audit reports;

6 (m) The most recent Federal Energy Regulatory Commission Form 1 (electric),
7 Federal Energy Regulatory Commission Form 2 (gas), or Public Service Commission
8 Form T (telephone);

9 (n) A summary of the utility's latest depreciation study with schedules by major
10 plant accounts, except that telecommunications utilities that have adopted the
11 commission's average depreciation rates shall provide a schedule that identifies the
12 current and test period depreciation rates used by major plant accounts. If the required
13 information has been filed in another commission case, a reference to that case's number
14 shall be sufficient;

15 (o) A list of all commercially available or in-house developed computer software,
16 programs, and models used in the development of the schedules and work papers
17 associated with the filing of the utility's application. This list shall include each software,
18 program, or model; what the software, program, or model was used for; identify the
19 supplier of each software, program, or model; a brief description of the software, program,
20 or model; and the specifications for the computer hardware and the operating system
21 required to run the program;

22 (p) Prospectuses of the most recent stock or bond offerings;

1 (q) Annual report to shareholders, or members, and statistical supplements
2 covering the two (2) most recent years from the utility's application filing date;

3 (r) The monthly managerial reports providing financial results of operations for the
4 twelve (12) months in the test period;

5 (s) A copy of the utility's annual report on Form 10-K as filed with the Securities
6 and Exchange Commission for the most recent two (2) years, any Form 8-K issued during
7 the past two (2) years, and any Form 10-Q issued during the past six (6) quarters updated
8 as current information becomes available;

9 (t) If the utility had amounts charged or allocated to it by an affiliate or general or
10 home office or paid monies to an affiliate or general or home office during the test period
11 or during the previous three (3) calendar years, the utility shall file:

12 1. A detailed description of the method and amounts allocated or charged to the
13 utility by the affiliate or general or home office for each charge allocation or payment;

14 2. An explanation of how the allocator for the test period was determined; and

15 3. All facts relied upon, including other regulatory approval, to demonstrate that
16 each amount charged, allocated, or paid during the test period was reasonable;

17 (u) If the utility provides gas, electric, water, or sewage utility service and has
18 annual gross revenues greater than \$5,000,000, a cost of service study based on a
19 methodology generally accepted within the industry and based on current and reliable
20 data from a single time period; and

21 (v) Incumbent local exchange carriers with fewer than 50,000 access lines shall
22 not be required to file cost of service studies, except as specifically directed by the
23 commission. Local exchange carriers with more than 50,000 access lines shall file:

- 1 1. A jurisdictional separations study consistent with 47 C.F.R. Part 36; and
- 2 2. Service specific cost studies to support the pricing of all services that generate
- 3 annual revenue greater than \$1,000,000, except local exchange access:
- 4 a. Based on current and reliable data from a single time period; and
- 5 b. Using generally recognized fully allocated, embedded, or incremental cost
- 6 principles.

7 (5)[(40)] Upon good cause shown, a utility may request pro forma adjustments for

8 known and measurable changes to ensure fair, just, and reasonable rates based on the

9 historical test period. The following information shall be filed with each application

10 requesting pro forma adjustments or a statement explaining why the required information

11 does not exist and is not applicable to the utility's application:

12 (a) A detailed income statement and balance sheet reflecting the impact of all

13 proposed adjustments;

14 (b) The most recent capital construction budget containing at least the period of

15 time as proposed for any pro forma adjustment for plant additions;

16 (c) For each proposed pro forma adjustment reflecting plant additions, provide the

17 following information:

- 18 1. The starting date of the construction of each major component of plant;
- 19 2. The proposed in-service date;
- 20 3. The total estimated cost of construction at completion;
- 21 4. The amount contained in construction work in progress at the end of the test
- 22 period;

1 5. A schedule containing a complete description of actual plant retirements and
2 anticipated plant retirements related to the pro forma plant additions including the actual
3 or anticipated date of retirement;

4 6. The original cost and the cost of removal and salvage for each component of
5 plant to be retired during the period of the proposed pro forma adjustment for plant
6 additions;

7 7. An explanation of differences, if applicable, in the amounts contained in the
8 capital construction budget and the amounts of capital construction cost contained in the
9 pro forma adjustment period; and

10 8. The impact on depreciation expense of all proposed pro forma adjustments for
11 plant additions and retirements;

12 (d) The operating budget for each month of the period encompassing the pro
13 forma adjustments; and

14 (e) The number of customers to be added to the test period end level of customers
15 and the related revenue requirements impact for all pro forma adjustments with complete
16 details and supporting work papers.

17 (6)[(14)] All applications requesting a general adjustment in rates supported by a
18 fully forecasted test period shall comply with the requirements established in this
19 subsection.

20 (a) The financial data for the forecasted period shall be presented in the form of
21 pro forma adjustments to the base period.

22 (b) Forecasted adjustments shall be limited to the twelve (12) months immediately
23 following the suspension period.

1 (c) Capitalization and net investment rate base shall be based on a thirteen (13)
2 month average for the forecasted period.

3 (d) After an application based on a forecasted test period is filed, there shall be no
4 revisions to the forecast, except for the correction of mathematical errors, unless the
5 revisions reflect statutory or regulatory enactments that could not, with reasonable
6 diligence, have been included in the forecast on the date it was filed. There shall be no
7 revisions filed within thirty (30) days of a scheduled hearing on the rate application.

8 (e) The commission may require the utility to prepare an alternative forecast based
9 on a reasonable number of changes in the variables, assumptions, and other factors used
10 as the basis for the utility's forecast.

11 (f) The utility shall provide a reconciliation of the rate base and capital used to
12 determine its revenue requirements.

13 ~~(7)~~~~(42)~~ Each application requesting a general adjustment in rates supported by a
14 fully forecasted test period shall include the following or a statement explaining why the
15 required information does not exist and is not applicable to the utility's application:

16 (a) The written~~prepared~~ testimony of each witness the utility proposes to use to
17 support its application, which shall include testimony from the utility's chief officer in
18 charge of Kentucky operations on the existing programs to achieve improvements in
19 efficiency and productivity, including an explanation of the purpose of the program;

20 (b) The utility's most recent capital construction budget containing at a minimum a
21 three (3) year forecast of construction expenditures;

22 (c) A complete description, which may be filed in written~~prepared~~ testimony form, of
23 all factors used in preparing the utility's forecast period. All econometric models,

1 variables, assumptions, escalation factors, contingency provisions, and changes in
2 activity levels shall be quantified, explained, and properly supported;

3 (d) The utility's annual and monthly budget for the twelve (12) months preceding
4 the filing date, the base period, and forecasted period;

5 (e) A statement of attestation signed by the utility's chief officer in charge of
6 Kentucky operations, which shall provide:

7 1. That the forecast is reasonable, reliable, made in good faith, and that all basic
8 assumptions used in the forecast have been identified and justified;

9 2. That the forecast contains the same assumptions and methodologies as used in
10 the forecast prepared for use by management, or an identification and explanation for
11 differences that exist, if applicable; and

12 3. That productivity and efficiency gains are included in the forecast;

13 (f) For each major construction project that constitutes five (5) percent or more of
14 the annual construction budget within the three (3) year forecast, the following information
15 shall be filed:

16 1. The date the project was started or estimated starting date;

17 2. The estimated completion date;

18 3. The total estimated cost of construction by year exclusive and inclusive of
19 allowance for funds used during construction ("AFUDC") or interest during construction
20 credit; and

21 4. The most recent available total costs incurred exclusive and inclusive of AFUDC
22 or interest during construction credit;

1 (g) For all construction projects that constitute less than five (5) percent of the
2 annual construction budget within the three (3) year forecast, the utility shall file an
3 aggregate of the information requested in paragraph (f)3 and 4 of this subsection;

4 (h) A financial forecast corresponding to each of the three (3) forecasted years
5 included in the capital construction budget. The financial forecast shall be supported by
6 the underlying assumptions made in projecting the results of operations and shall include
7 the following information:

- 8 1. Operating income statement (exclusive of dividends per share or earnings per
9 share);
- 10 2. Balance sheet;
- 11 3. Statement of cash flows;
- 12 4. Revenue requirements necessary to support the forecasted rate of return;
- 13 5. Load forecast including energy and demand (electric);
- 14 6. Access line forecast (telephone);
- 15 7. Mix of generation (electric);
- 16 8. Mix of gas supply (gas);
- 17 9. Employee level;
- 18 10. Labor cost changes;
- 19 11. Capital structure requirements;
- 20 12. Rate base;
- 21 13. Gallons of water projected to be sold (water);
- 22 14. Customer forecast (gas, water);
- 23 15. Sales volume forecasts – cubic feet (gas);

1 16. Toll and access forecast of number of calls and number of minutes
2 (telephone); and

3 17. A detailed explanation of other information provided, if applicable;

4 (i) The most recent Federal Energy Regulatory Commission or Federal
5 Communications Commission audit reports;

6 (j) The prospectuses of the most recent stock or bond offerings;

7 (k) The most recent Federal Energy Regulatory Commission Form 1 (electric),
8 Federal Energy Regulatory Commission Form 2 (gas), or Public Service Commission
9 Form T (telephone);

10 (l) The annual report to shareholders or members and the statistical supplements
11 covering the most recent two (2) years from the application filing date;

12 (m) The current chart of accounts if more detailed than the Uniform System of
13 Accounts chart prescribed by the commission;

14 (n) The latest twelve (12) months of the monthly managerial reports providing
15 financial results of operations in comparison to the forecast;

16 (o) Complete monthly budget variance reports, with narrative explanations, for the
17 twelve (12) months immediately prior to the base period, each month of the base period,
18 and any subsequent months, as they become available;

19 (p) A copy of the utility's annual report on Form 10-K as filed with the Securities
20 and Exchange Commission for the most recent two (2) years, and any Form 8-K issued
21 during the past two (2) years, and any Form 10-Q issued during the past six (6) quarters;

1 (q) The independent auditor's annual opinion report, with any written
2 communication from the independent auditor to the utility that indicates the existence of a
3 material weakness in the utility's internal controls;

4 (r) The quarterly reports to the stockholders for the most recent five (5) quarters;

5 (s) The summary of the latest depreciation study with schedules itemized by major
6 plant accounts, except that telecommunications utilities that have adopted the
7 commission's average depreciation rates shall provide a schedule that identifies the
8 current and base period depreciation rates used by major plant accounts. If the required
9 information has been filed in another commission case, a reference to that case's number
10 shall be sufficient;

11 (t) A list of all commercially available or in-house developed computer software,
12 programs, and models used in the development of the schedules and work papers
13 associated with the filing of the utility's application. This list shall include each software,
14 program, or model; what the software, program, or model was used for; identify the
15 supplier of each software, program, or model; a brief description of the software, program,
16 or model; the specifications for the computer hardware and the operating system required
17 to run the program;

18 (u) If the utility had amounts charged or allocated to it by an affiliate or a general or
19 home office or paid monies to an affiliate or a general or home office during the base
20 period or during the previous three (3) calendar years, the utility shall file:

21 1. A detailed description of the method and amounts allocated or charged to the
22 utility by the affiliate or general or home office for each allocation or payment;

1 2. The method and amounts allocated during the base period and the method and
2 estimated amounts to be allocated during the forecasted test period;

3 3. An explanation of how the allocator for both the base period and the forecasted
4 test period were determined; and

5 4. All facts relied upon, including other regulatory approval, to demonstrate that
6 each amount charged, allocated, or paid during the base period is reasonable;

7 (v) If the utility provides gas, electric, sewage[utility], or water utility service and has
8 annual gross revenues greater than \$5,000,000, a cost of service study based on a
9 methodology generally accepted within the industry and based on current and reliable
10 data from a single time period; and

11 (w) Incumbent local exchange carriers with fewer than 50,000 access lines shall
12 not be required to file cost of service studies, except as specifically directed by the
13 commission. Local exchange carriers with more than 50,000 access lines shall file:

14 1. A jurisdictional separations study consistent with 47 C.F.R. Part 36 ; and

15 2. Service specific cost studies to support the pricing of all services that generate
16 annual revenue greater than \$1,000,000 except local exchange access:

17 a. Based on current and reliable data from a single time period; and

18 b. Using generally recognized fully allocated, embedded, or incremental cost
19 principles.

20 (8)[(13)] Each application seeking a general adjustment in rates supported by a
21 forecasted test period shall include[the following data]:

22 (a) A jurisdictional financial summary for both the base period and the forecasted
23 period that details how the utility derived the amount of the requested revenue increase;

1 (b) A jurisdictional rate base summary for both the base period and the forecasted
2 period with supporting schedules, which include detailed analyses of each component of
3 the rate base;

4 (c) A jurisdictional operating income summary for both the base period and the
5 forecasted period with supporting schedules, which provide breakdowns by major
6 account group and by individual account;

7 (d) A summary of jurisdictional adjustments to operating income by major account
8 with supporting schedules for individual adjustments and jurisdictional factors;

9 (e) A jurisdictional federal and state income tax summary for both the base period
10 and the forecasted period with all supporting schedules of the various components of
11 jurisdictional income taxes;

12 (f) Summary schedules for both the base period and the forecasted period (the
13 utility may also provide a summary segregating those items it proposes to recover in
14 rates) of organization membership dues; initiation fees; expenditures at country clubs;
15 charitable contributions; marketing, sales, and advertising expenditures; professional
16 service expenses; civic and political activity expenses; expenditures for employee parties
17 and outings; employee gift expenses; and rate case expenses;

18 (g) Analyses of payroll costs including schedules for wages and salaries,
19 employee benefits, payroll taxes, straight time and overtime hours, and executive
20 compensation by title;

21 (h) A computation of the gross revenue conversion factor for the forecasted period;

22 (i) Comparative income statements (exclusive of dividends per share or earnings
23 per share), revenue statistics and sales statistics for the five (5) most recent calendar

1 years from the application filing date, the base period, the forecasted period, and two (2)
2 calendar years beyond the forecast period;

3 (j) A cost of capital summary for both the base period and forecasted period with
4 supporting schedules providing details on each component of the capital structure;

5 (k) Comparative financial data and earnings measures for the ten (10) most recent
6 calendar years, the base period, and the forecast period;

7 (l) A narrative description and explanation of all proposed tariff changes;

8 (m) A revenue summary for both the base period and forecasted period with
9 supporting schedules, which provide detailed billing analyses for all customer classes;
10 and

11 (n) A typical bill comparison under present and proposed rates for all customer
12 classes.

13 ~~(9)[(14)]~~ The commission shall notify the applicant of any deficiencies in the
14 application within thirty (30) days of application's submission. An application shall not be
15 accepted for filing until the utility has cured all noted deficiencies~~[utility of deficiencies, if~~
16 ~~applicable, in the application within thirty (30) days of receiving it. For the application to be~~
17 ~~considered filed with the commission, the utility shall cure deficiencies within thirty (30)~~
18 ~~days of the commission giving notice of deficiencies].~~

19 ~~(10)[(15)]~~ A request for a waiver from the requirements of this section shall
20 include~~[waiver of provisions of these filing requirements shall establish]~~ the specific
21 reasons for the request. The commission shall grant the request~~[for waiver]~~ upon good
22 cause shown by the utility. In determining if good cause has been shown, the commission
23 shall consider:

1 (a) If other information that the utility would provide if the waiver is granted is
2 sufficient to allow the commission to effectively and efficiently review the rate application;

3 (b) If the information that is the subject of the waiver request is normally
4 maintained by the utility or reasonably available to it from the information that it maintains;
5 and

6 (c) The expense to the utility in providing the information that is the subject of the
7 waiver request.

8 Section 17. Notice of General Rate Adjustment. When filing an application for a
9 general rate adjustment, a utility shall provide notice as follows:

10 (1) Public postings.

11 (a) A utility shall post at its place of business a copy of the notice no later than the
12 date the application is submitted to the commission.

13 (b) A utility that maintains a Web site shall, within five (5) business days of the date
14 the application is submitted to the commission, post on its Web sites:

15 1. A copy of the public notice; and

16 2. A hyperlink to the location on the commission's Web site where the case
17 documents are available.

18 (c) The information required in paragraphs (a) and (b) of this subsection shall not
19 be removed until the commission issues a final decision on the application.

20 (2) Customer Notice.

21 (a) If a utility has twenty (20) or fewer customers or is a sewage utility, it shall mail
22 a written notice to each customer no later than the date on which the application is
23 submitted to the commission.

1 (b) If a utility has more than twenty (20) customers and is not a sewage utility, it
2 shall provide notice by:

3 1. Including notice with customer bills mailed no later than the date the application
4 is submitted to the commission;

5 2. Mailing a written notice to each customer no later than the date the application is
6 submitted to the commission;

7 3. Publishing notice once a week for three (3) consecutive weeks in a prominent
8 manner in a newspaper of general circulation in the utility's service area, the first
9 publication to be made no later than the date the application is submitted to the
10 commission; or

11 4. Publishing notice in a trade publication or newsletter delivered to all customers
12 no later than the date the application is submitted to the commission.

13 (c) A utility that provides service in more than one (1) county and is not a sewage
14 utility may use a combination of the notice methods listed in paragraph (b) of this
15 subsection.

16 (3) Proof of Notice. A utility shall file with the commission no later than forty-five
17 (45) days from the date the application was initially submitted to the commission:

18 (a) If notice is mailed to its customers, an affidavit from an authorized
19 representative of the utility verifying the contents of the notice, that notice was mailed to
20 all customers, and the date of the mailing;

21 (b) If notice is published in a newspaper of general circulation in the utility's service
22 area, an affidavit from the publisher verifying the contents of the notice, that the notice
23 was published, and the dates of the notice's publication; or

1 (c) If notice is published in a trade publication or newsletter delivered to all
2 customers, an affidavit from an authorized representative of the utility verifying the
3 contents of the notice, the mailing of the trade publication or newsletter, that notice was
4 included in the publication or newsletter, and the date of mailing.

5 (4) Notice Content. Each notice issued in accordance with this section shall
6 contain:

7 (a) The proposed effective date and the date the proposed rates are expected to
8 be filed with the commission;

9 (b) The present rates and proposed rates for each customer classification to which
10 the proposed rates will apply;

11 (c) The amount of the change requested in both dollar amounts and percentage
12 change for each customer classification to which the proposed rates will apply;

13 (d) The amount of the average usage and the effect upon the average bill for each
14 customer classification to which the proposed rates will apply, except for local exchange
15 companies, which shall include the effect upon the average bill for each customer
16 classification for the proposed rate change in basic local service;

17 (e) A statement that a person may examine this application and any related
18 documents the utility has filed with the Public Service Commission at the offices of (utility
19 name) located at (utility address);

20 (f) A statement that a person may examine this application and any related
21 documents at the commission's offices located at 211 Sower Boulevard, Frankfort,
22 Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the commission's
23 Web site at <http://psc.ky.gov>;

1 (g) A statement that comments regarding the application may be submitted to the
2 Public Service Commission through its Web site or by mail to Public Service Commission,
3 Post Office Box 615, Frankfort, Kentucky 40602;

4 (h) A statement that the rates contained in this notice are the rates proposed by
5 (utility name) but that the Public Service Commission may order rates to be charged that
6 differ from the proposed rates contained in this notice;

7 (i) A statement that a person may submit a timely written request for intervention to
8 the Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602,
9 establishing the grounds for the request including the status and interest of the party; and

10 (j) A statement that if the commission does not receive a written request for
11 intervention within thirty (30) days of initial publication or mailing of the notice, the
12 commission may take final action on the application.

13 (5) Abbreviated form of notice. Upon written request, the commission may grant a
14 utility permission to use an abbreviated form of published notice of the proposed rates,
15 provided the notice includes a coupon that may be used to obtain all of the required
16 information.

17 Section ~~18~~[47]. Application for Authority to Issue Securities, Notes, Bonds, Stocks,
18 or Other Evidences of Indebtedness. (1) An application for authority to issue[Upon
19 application by the utility for an order authorizing the issuance of] securities, notes, bonds,
20 stocks, or other evidences of indebtedness payable at periods of more than two (2) years
21 from the date thereof,~~[pursuant to the provisions of KRS 278.300, the application, in~~
22 ~~addition to complying with the requirements of Section 14 of this administrative~~
23 ~~regulation,]~~ shall contain:

1 (a) The information required by Section 14 of this administrative regulation.

2 (b) A general description of the applicant's property and the field of its operation,
3 together with a statement of the original cost of the same and the cost to the applicant. If
4 it is impossible to state the original cost, the facts creating the impossibility shall be
5 stated;

6 (c)[(b)] The amount and kinds of stock, if any, which the applicant[utility] desires to
7 issue, and, if preferred, the nature and extent of the preference; the amount of notes,
8 bonds, or other evidences of indebtedness, if any, which the applicant[utility] desires to
9 issue, with terms, rate of interest, and if and how to be secured;

10 (d)[(c)] The use to be made of the proceeds of the issue of securities, notes,
11 bonds, stocks, or other evidence of indebtedness with a statement indicating how much is
12 to be used for the acquisition of property, the construction, completion, extension, or
13 improvement of facilities, the improvement of service, the maintenance of service, and the
14 discharge or refunding of obligations;

15 (e)[(d)] The property in detail that is to be acquired, constructed, improved, or
16 extended with its cost, a detailed description of the contemplated construction,
17 completion, extension, or improvement of facilities established in a manner whereby an
18 estimate of the cost may be made, a statement of the character of the improvement of
19 service proposed, and of the reasons why the service should be maintained from its
20 capital. If a contract has been made for the acquisition of property, or for construction,
21 completion, extension, or improvement of facilities, or for the disposition of the securities,
22 notes, bonds, stocks, or other evidence of indebtedness that it proposes to issue or the

1 proceeds thereof and if a contract has been made, copies thereof shall be annexed to the
2 application~~[petition]~~;

3 ~~(f)~~~~(e)~~ If it is proposed to discharge or refund obligations, a statement of the nature
4 and description of the obligations including their par value, the amount for which they
5 were actually sold, the associated expenses, and the application of the proceeds from the
6 sales. If notes are to be refunded, the application~~[petition]~~ shall show the date, amount,
7 time, rate of interest, and payee of each and the purpose for which their proceeds were
8 expended; and

9 (g) If applicant is a water district, a copy of its written notification to the state local
10 debt officer regarding the proposed issuance.

11 ~~[(f) Other facts pertinent to the application.]~~

12 (2) The following exhibits shall be filed with the application:

13 (a) Financial exhibit (see Section 12 of this administrative regulation);

14 (b) Copies of trust deeds or mortgages, if applicable, unless they have already
15 been filed with the commission, in which case reference shall be made by case number to
16 the proceeding in which the trust deeds or mortgages have been filed; and

17 (c) Maps and plans of the proposed property and constructions together with
18 detailed estimates in a form that they can be reviewed by the commission's engineering
19 division. Estimates shall be arranged according to the commission-prescribed uniform
20 system of accounts for the various classes of utilities.

21 Section 19~~[18]~~. Application for Declaratory Order. (1) The commission may, upon
22 application by a person substantially affected, issue a declaratory order with respect to
23 the jurisdiction of the commission, the applicability to a person, property, or state of facts

1 of an order or administrative regulation of the commission or provision of KRS Chapter
2 278, or with respect to the meaning and scope of an order or administrative regulation of
3 the commission or provision of KRS Chapter 278.

4 (2) An application for declaratory order shall:

5 (a) Be in writing;

6 (b) Contain a complete, accurate, and concise statement of the facts upon which
7 the application is based;

8 (c) Fully disclose the applicant's interest;

9 (d) Identify all statutes, administrative regulations, and orders to which the
10 application relates; and

11 (e) State the applicant's proposed resolution or conclusion.

12 (3) The commission may direct that a copy of the application for a declaratory
13 order be served on a person who may be affected by the application.

14 (4) Responses, if applicable, to an application for declaratory order shall be filed
15 with the commission within twenty-one (21) days after the date on which the application
16 was filed with the commission and shall be served upon the applicant.

17 (5) A reply to a response shall be filed with the commission within fourteen (14)
18 days after service.

19 (6) Each application, response, and reply containing an allegation of fact shall be
20 supported by affidavit or shall be verified.

21 (7) The commission may dispose of an application for a declaratory order solely on
22 the basis of the written submissions filed.

1 (8) The commission may take any action necessary to ensure a complete record,
2 to include holding oral arguments on the application and requiring the production of
3 additional documents and materials, and may extend the time for the filing of a reply or
4 response under this section.

5 Section 20[49]. Formal Complaints. (1) Contents of complaint. Each complaint
6 shall be headed "Before the Public Service Commission," shall establish the names of the
7 complainant and~~[the name of]~~ the defendant, and shall state:

8 (a) The full name and post office address of the complainant;

9 (b) The full name and post office address of the defendant;~~[and]~~

10 (c) Fully, clearly, and with reasonable certainty, the act or omission~~[thing done or~~
11 ~~omitted to be done]~~, of which complaint is made, with a reference, if practicable, to the
12 law, order, or administrative regulation~~[section and subsection]~~, of which a failure to
13 comply is alleged~~[a violation is claimed]~~, and other matters, or facts, if any, as necessary
14 to acquaint the commission fully with the details of the alleged failure; and

15 (d) The relief sought~~[violation. The complainant shall specifically establish the relief~~
16 ~~desired]~~.

17 (2) Signature. The complainant or his or her attorney, if applicable, shall sign the
18 complaint~~[The complaint shall be signed by the complainant or his or her attorney, if~~
19 ~~applicable, and if signed by an attorney, shall show the attorney's post office address]~~. A
20 complaint by a corporation, association, or another organization with the right to file a
21 complaint, shall be signed by its~~[the entity's]~~ attorney.

1 (3) Number of copies required. When the complainant files his or her original
2 complaint, the complainant shall also file two (2) more copies than the number of
3 persons~~[or corporations]~~ to be served.

4 (4) Procedure on filing of complaint.

5 (a) Upon the filing of a complaint, the commission shall immediately examine the
6 complaint[same] to ascertain if it establishes a prima facie case and conforms to this
7 administrative regulation.

8 1. If the commission finds~~[is of the opinion]~~ that the complaint does not establish a
9 prima facie case or does not conform to this administrative regulation, the commission
10 shall notify the complainant~~[or his or her attorney to that effect,]~~ and provide the
11 complainant an opportunity~~[shall be given]~~ to amend the complaint within a specified time.

12 2. If the complaint is not amended within the time or the extension as the
13 commission, for good cause shown, shall grant, the complaint shall be dismissed.

14 (b) If the complaint, either as originally filed or as amended, establishes a prima
15 facie case and conforms to this administrative regulation, the commission shall serve an
16 order upon the person complained of, accompanied by a copy of the complaint, directed
17 to the person complained of and requiring that the matter complained of be satisfied, or
18 that the complaint be answered in writing within ten (10) days from the date of service of
19 the order, provided that the commission may~~[, in particular cases,]~~ require the answer to
20 be filed within a shorter or longer period.

21 (5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint,
22 he or she shall submit to the commission, within the time allowed for satisfaction or
23 answer, a statement of the relief which the defendant is willing to give. Upon the

1 acceptance of this offer by the complainant and with the approval of the commission, the
2 case shall be dismissed~~[further proceedings shall not be taken]~~.

3 (6) Answer to complaint. If the complainant is not satisfied with the relief offered,
4 the defendant~~[person complained of]~~ shall file an answer to the complaint~~[, with certificate~~
5 ~~of service on other endorsed parties,]~~ within the time specified in the order or the
6 extension as the commission, for good cause shown, shall grant.

7 (a) The answer shall contain a specific denial of the material allegations of the
8 complaint as controverted by the defendant and also a statement of any new
9 matters~~[matter]~~ constituting a defense.

10 (b) If the defendant~~[answering party]~~ does not have information sufficient to~~[enable~~
11 ~~him or her]~~ to answer an allegation of the complaint, it~~[the answering party]~~ may so state
12 in the answer and place the denial upon that ground.

13 Section 21~~[20]~~. Informal Complaints. (1) An informal complaint shall be made to
14 the commission's division of consumer services in a manner that specifically states the
15 complainant's concerns and identifies the utility.

16 (2) The commission's division of consumer services shall address by
17 correspondence or other means the complaint. If an informal complaint is referred to a
18 utility, the utility shall acknowledge to the commission's division of consumer services
19 referral of the complaint and shall report on its efforts to contact the complainant within
20 three (3) business days of the referral, or a lesser period as commission staff may
21 require. If commission staff requires a period less than three (3) business days for a
22 response, that period shall be reasonable under the circumstances.

1 (3) Upon resolution of the informal complaint, the utility shall notify the
2 commission's division of consumer services.

3 (4) In the event of failure to bring about satisfaction of the complaint because of the
4 inability of the parties to agree as to the facts involved, or from other causes, the
5 proceeding shall be held to be without prejudice to the complainant's right to file and
6 prosecute a formal complaint whereupon the informal proceedings shall be discontinued.

7 Section 22[24]. Deviations from Rules. In special cases, for good cause shown,
8 the commission may permit deviations from these rules.

9 Section 23[22]. Incorporation by Reference. (1) The following material is
10 incorporated by reference:

11 (a) "FERC Form-1", Annual Report of Major Electric Utilities, Licensees and
12 Others, March 2007;

13 (b) "FERC Form-2", Annual Report of Major Natural Gas Companies, December
14 2007;

15 (c) "Notice of Election of Use of Electronic Filing Procedures", July 2012;

16 (d) "PSC Form-T (telephone)", August 2005;

17 (e) "Form 8-K", January 2012;

18 (f) "Form 10-K", January 2012;~~[and]~~

19 (g) "Form 10-Q", January 2012;and

20 (h) "Subpoena Form", August 2013.

21 (2) This material may be inspected, copied, or obtained, subject to applicable
22 copyright law, at the commission's offices located at 211 Sower Boulevard, Frankfort,

- 1 Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the
- 2 commission's Web site at <http://psc.ky.gov>.

David L. Armstrong, Chairman
Public Service Commission

DATE: _____

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 23, 2013, at 9:00 a.m., Eastern Daylight Time, at the Public Service Commission's office, 211 Sower Boulevard, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 2013, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until September 30, 2013. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Gerald E. Wuetcher
Executive Advisor/Attorney
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602
Tel: (502) 564-3940
Fax: (502) 564-3460
gerald.wuetcher@ky.gov

REGULATORY IMPACT ANALYSIS

Administrative Regulation #: 807 KAR 5:001

Contact Person: Gerald E. Wuetcher, Executive Advisor

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the rules of procedures for the hearings and formal proceedings before the Public Service Commission.

(b) The necessity of this administrative regulation: This administrative regulation is needed to provide the structural framework for hearings and formal proceedings that the Public Service Commission conducts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 278.040(3) authorizes the Commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278. KRS 278.310 provides that hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets forth the rules of procedure that utilities and the commission must follow.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The proposed amendment codifies Commission practices for requesting information in a case, sets forth rules for consolidation of cases, revises the size limit for an electronic uploading session and for individual files in an electronic uploading session, amends the rules for intervention, updates the procedures for confidentiality, and makes technical adjustments to revisions that became effective in January 2013.

(b) The necessity of the amendment to this administrative regulation: This amendment incorporates Commission practices that have not been codified in the Commission's regulations. This amendment makes technical changes to revisions to 807 KAR 5:001 in January 2013. It reflects reporting requirements to the governing bodies of counties that the recent enactment of KRS 65A.100 imposes upon water districts.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 278.040(3) authorizes the Commission to adopt reasonable regulations to

implement the provisions of KRS Chapter 278. KRS 278.310 provides that hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies changes that were made in the prior revision and provides more guidance to utilities in regards to proceedings before the Commission.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed amendment will affect all utilities regulated by the Public Service Commission and all persons who make an appearance or otherwise participate in Commission proceedings.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment will not require additional actions by the utilities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no additional costs to comply with this amendment. The proposed amendment eliminates several filing requirements and reduces the number of documents that a party to a proceeding is required to file. It clarifies several uncertainties in the existing regulation and will likely lessen the number of actions that parties to a Commission proceeding must take to ensure compliance with the Commission's procedural rules.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The proposed amendment provides clarity regarding proceedings before the Commission. It harmonizes the Commission's rules regarding electronic filing with the existing capabilities of the Commission's Electronic Filing System. It standardizes the rules regarding discovery and information requests. It clarifies and more precisely defines the Commission's rules regarding intervention.

(5) Provide an estimate of how much it will cost to the administrative body to implement this administrative regulation:

(a) Initially: Implementation of the proposed amendment will not involve additional costs.

(b) On a continuing basis: No additional costs are expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is required.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary or will be required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Yes. Section 12(1)(a) allows a utility with less than \$5,000,000 in gross annual revenue in the immediate past calendar year to file its financial exhibit for the consecutive twelve (12) month period contained in the utility's most recent annual report on file with the commission with its application. Many smaller jurisdictional utilities do not have the accounting systems in place to produce a financial exhibit based on a consecutive twelve (12) month period ending not more than ninety (90) days prior to the date an application is filed. Moreover, past experience has shown that requiring more current financial exhibits for smaller utilities increases the expense of the filing without any corresponding benefit to the public.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No.: 807 KAR 5:001

Contact Person: Gerald Wuetcher
(502) 564-3940
gerald.wuetcher@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Public Service Commission; Office of Attorney General (Utility Rate and Intervention Division); water districts; sewer districts; municipalities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 278.040(3) authorizes the commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278. KRS 278.310 provides that all hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No direct increase in revenue will result from the adoption of the proposed amendment for any governmental agency. The proposed amendment does not provide for the Public Service Commission to assess any fee or charge.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No direct increase in revenue will result from the adoption of the proposed amendment for any governmental agency. The proposed amendment does not provide for the Public Service Commission to assess any fee or charge.

(c) How much will it cost to administer this program for the first year? There should be no increase in the Public Service Commission's cost of operations related to the revision of the administrative regulation for the first year. The Public Service Commission will continue performing the same level of review and require the same number of employees to conduct its review.

(d) How much will it cost to administer this program for subsequent years? There should be no increase in the Public Service Commission's cost of operations related to the revision of the administrative regulation for subsequent years. The Public Service Commission will continue performing the same level of review and require the same number of employees to conduct its review.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

SUMMARY OF INCORPORATED MATERIAL

(1) "Subpoena Form" is a one page form the Commission issues, on its own motion or at the request of a party to a proceeding, to compel an individual to appear to provide testimony and produce documents. The required appearance may be for a hearing or for a deposition. When properly completed, it tells the recipient the location, date, time and nature of the appearance and where the person subject to the subpoena must produce documents at his or her appearance. KRS 278.320 authorizes the commission or any commissioner to issue subpoenas. A party that is requesting the issuance of a subpoena must complete this form and submit to the Commission. The subpoena has no legal effect unless executed by a commissioner.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

)
) CASE NO.
)

SUBPOENA

1. The Public Service Commission TO: _____

_____.

2. You are commanded to appear before the Public Service Commission, 211
Sower Boulevard, Frankfort, Kentucky 40602.

3. At _____

4. On the _____ day of _____ at _____.

5. _____ To testify on behalf of _____

_____ To produce _____

_____ To give depositions _____

Commissioner, Public Service Commission

Date: _____

Requesting Attorney

This subpoena was served by delivery of a true copy to:
_____.

This _____ day of _____.

By _____

Title _____